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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,936	09/25/2003	Fernando Cipullo	CIPLO.001A	2048

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,936

Applicant(s)

CIPULLO, FERNANDO

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5 and 10-22 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The claims submitted 11/26/04 should have been submitted as a separate paper as required by 37 CFR 1.4(c). The paper has been entered. However, all future correspondence must comply with 37 CFR 1.4.

Claim Rejections - 35 USC § 102

2. Claims 1,4,10,11 rejected under 35 U.S.C. 102(b) as being anticipated by Landsberg (4844473).

Claims 1,4,10,11: Landsberg teaches providing game units comprising five playing pieces (4:20-24) for each player, a playing surface (13) having spaces (15), moving game pieces on playing surface (abstract lines 1-3), game pieces staying at a predetermined separation by a number of spaces (3:59-66), restricted movement of one of the game pieces (4:43-59) and game pieces moving separately on the surface (4:30-32). Applicant may note that Landsberg playing pieces may be broadly and reasonably treated as primary and secondary playing pieces as because they move separately.

3. Claims 1,3-5,10-11 rejected under 35 U.S.C. 102(b) as being anticipated by Nuebling (4346899).

Nuebling teaches a game unit with multiple pieces (at least four sets of figurine and pedestal pieces), board game (10), path spaces (12), moving game pieces on a playing surface according to chance cards (8:51), and at least one game piece (figurine) being moved (9:23-30) to separate itself from another playing piece (pedestal) and moving the

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another piece (pedestal) to a start space. This is being interpreted as moving for separation with a predetermined number of spaces. Further both pieces (figurine and pedestal) are configured to move separately broadly and reasonably interpreting.

4. Claims 16-20 rejected under 35 U.S.C. 102(b) as being anticipated by Schick (3582080).

At the outset the examiner takes the position that rules for playing in an apparatus claim do not further limit the apparatus. Rules are treated as intended use of the apparatus.

For example pieces moving separately, remaining separate by a predetermined number of spaces such as 5, are rules and do not further limit the game apparatus.

Schick teaches board game (120), path spaces (128), means for determining movement (cards determining movement see Fig.3 and dice determining movement see 4:21-23) and game piece units with multiple pieces (4:10-13).

Claim Rejections - 35 USC § 103

5. Claim 3 rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberg. Landsberg teaches all limitations of this claim except that it does not teach separation of five spaces.

Landsberg teaches that the link between the two playing pieces can be elastic and thus can be used for maintaining a different predetermined separation (4:1-9).

In order to make the game interesting, it would have been obvious to change the separation distance to any size depending on the material of the link.

One of ordinary skill in art at the time the invention was made would have suggested changing the predetermined separation distance for making the game interesting.

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6. Claims 12-15,21-22 rejected under 35 U.S.C. 103(a) as being unpatentable over Nuebling (4346899) in view of Williams (4903969).

Claims 12-13: Nuebling teaches a game unit with multiple pieces (at least four sets of figurine and pedestal pieces), board game (10), path spaces (12), moving game pieces on a playing surface according to chance cards (8:51), and at least one game piece (figurine) being moved (9:23-30) to separate itself from another playing piece (pedestal) and moving the another piece (pedestal) to a start space. This is being interpreted as moving for separation with a predetermined number of spaces. Further both pieces (figurine and pedestal) are configured to move separately broadly and reasonably interpreting.

Nuebling teaches a method of playing a board game selecting a primary (figurine) and a secondary (pedestal) piece, placing them as a unit on a space (9:3-5), rolling a die and moving primary and secondary pieces (9:5-7), and keeping primary and secondary pieces within a predetermined number of spaces (9:24-30). Applicant may note that drawing a card with a number is an art recognized chance device substitute for a dice with numbers, the method remaining the same.

Nuebling teaches all limitations except that it does not teach a combined move by primary and secondary pieces equaling a total of the card number.

Williams teaches a board game allowing a player to move multiple pieces to a total roll.

Art area of board games is a competitive amusement area and in order to attract players it is obvious to allow such moves as already known in the art.

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One of ordinary skill in art at the time the invention was made would have suggested combined move to a total roll.

Claim 14: Applicant may note that "pieces separated by a predetermined number being five" is a choice and would have been obvious for creating a variation.

Claim 15: Primary game piece imposed with penalty by leaving the primary game piece (33) on the same space when secondary piece is separated (9:23-24).

Claims 21-22: Nuebling teaches placing two piece together in the beginning and separating and moving them to different locations during the game.

Allowable Subject Matter

7. Claims 6-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1,3-8,10-22 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta
Primary Examiner
Art Unit 3711



VKM
February 9, 2005